



National Insurance Act 1965

1965 CHAPTER 51

PART IV

DETERMINATION OF CLAIMS AND QUESTIONS

Provisions as to local tribunals, Commissioner, etc.

77 Constitution of local tribunals

- (1) A local tribunal for the purposes of sections 67 to 72 of this Act shall consist of—
 - (a) one member drawn from a panel composed of persons representing employers and persons representing insured persons other than employed persons;
 - (b) one member drawn from a panel of persons representing employed persons;
 - (c) a person appointed by the Minister to act as chairman.
- (2) The panels referred to in subsection (1) of this section shall be constituted by the Minister for the whole of Great Britain, and each panel shall relate to such area as the Minister thinks fit, and be composed of such persons as the Minister sees fit to appoint.
- (3) Before appointing members to either of the panels, the Minister may take into consideration any recommendation from a local advisory committee constituted under section 89 of this Act or from any other local committee representing employers or insured persons or both, or from organisations concerned with the interests of employers or insured persons, including friendly societies or organisations representative of friendly societies.
- (4) The members of the panels shall hold office for such period as the Minister may direct:
Provided that the Minister may at any time terminate the appointment of any member of a panel.
- (5) So far as practicable, each member of a panel shall be summoned to serve in turn upon a local tribunal:
Provided that—

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- (a) no member of a panel shall sit upon a local tribunal during the consideration of a case—
 - (i) in which he appears as the representative of the claimant; or
 - (ii) by which he is or may be directly affected ; or
 - (iii) in which he has taken any part as an official of an association, or as an employer, or as a witness, or as a person to whom any question arising thereon has been referred for examination and report in accordance with section 64(3) or with regulations under section 73(1) of this Act or otherwise;
 - (b) where the benefit claimed is unemployment benefit, the member chosen from the first panel shall, if practicable, be a representative of employers; and
 - (c) in any case in which the claimant is a woman, at least one of the members of the tribunal, if practicable, shall be a woman.
- (6) Any case may, with the consent of the claimant but not otherwise, be proceeded with in the absence of any member of the local tribunal other than the chairman, and in any such case the tribunal shall be deemed to be properly constituted and the chairman shall, if the number of the members of the tribunal is an even number, have a second or casting vote.
- (7) A person appointed to act as chairman of a local tribunal shall hold and vacate office in accordance with the terms of his letter of appointment.
- (8) Where several persons are appointed to act as chairmen for a particular area they shall as far as practicable be invited to preside over a tribunal in turn:
 Provided that this subsection shall not apply to a person expressly appointed to serve as a substitute when some other person may be unwilling or unable to act.

78 National Insurance Commissioner and deputy Commissioners

- (1) The National Insurance Commissioner shall be appointed by Her Majesty, and Her Majesty may appoint for the purposes of this Act such number of deputy Commissioners as Her Majesty thinks fit.
- (2) The Commissioner and deputy Commissioners shall be barristers or advocates of not less than ten years' standing.
- (3) Unless the context otherwise requires, any reference in this Act to the National Insurance Commissioner shall include a reference to a deputy Commissioner and to any tribunal constituted under section 70(3) of this Act.

79 Pension benefits of Commissioner and deputy Commissioners

- (1) Without prejudice to the pension benefits conferred by the Administration of Justice (Pensions) Act 1950, the Minister may from time to time recommend to the Treasury that there shall be paid out of moneys provided by Parliament to the National Insurance Commissioner or any deputy Commissioner appointed under section 78 of this Act an annual sum by way of superannuation allowance calculated in accordance with Schedule 6 to this Act if either—
 - (a) he is at the time of his retirement over the age of seventy two or, where he retires after fifteen years' service, the age of sixty-five ; or
 - (b) the Minister is satisfied by means of a medical certificate that at the time of his retirement he is, by reason of infirmity of mind or body, incapable

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of discharging the duties of his office and that the incapacity is likely to be permanent.

- (2) For the purposes of the foregoing subsection and the said Schedule 6—
 - (a) service as National Insurance Commissioner or deputy Commissioner which is not remunerated by means of a salary shall be disregarded;
 - (b) service as deputy Commissioner shall, subject to the foregoing paragraph, count (in the case of a person retiring as National Insurance Commissioner) as service as National Insurance Commissioner;
 - (c) the Treasury may by regulations provide for counting as service as National Insurance Commissioner or as deputy Commissioner pensionable service in any other capacity under the Crown.
- (3) The decision of the Treasury shall be final on any question arising as to—
 - (a) the amount of any superannuation allowance under this section; or
 - (b) the reckoning of any service for the purpose of calculating such an allowance.
- (4) Where the rate of the superannuation allowance payable to any person under subsection (1) of this section as National Insurance Commissioner or deputy Commissioner is or would be increased by virtue of regulations made under subsection (2)(c) of this section in respect of service in some other capacity, and a pension payable to him wholly in respect of service in that other capacity would have been paid and borne otherwise than out of moneys provided by Parliament, any pension benefits paid to or in respect of him as having been Commissioner or deputy Commissioner shall, to such extent as the Treasury may determine, having regard to the relative length of service and rate of remuneration in each capacity, be paid and borne in like manner as that in which a pension payable to him wholly in respect of service in that other capacity would have been paid and borne.
- (5) In this section, the expression " pension" includes any superannuation or other retiring allowance or gratuity, and the expression " pensionable " shall be construed accordingly, and the expression " pension benefits " includes benefits payable on retirement or death by way of lump sum or gratuity, and benefits payable in respect of a person's service or employment to other persons by way of widow's or orphan's pension or otherwise.

80 Remuneration and expenses of Commissioner and other persons

- (1) The Minister shall pay to the National Insurance Commissioner and any deputy Commissioner appointed under this Act such salary or other remuneration as the Treasury may determine and such expenses incurred in connection with the work of the Commissioner, a deputy Commissioner or any tribunal presided over by the Commissioner or a deputy Commissioner as may be so determined.
- (2) The Minister may pay—
 - (a) to any other person appointed under the foregoing provisions of this Part of this Act to determine questions or as a member of or assessor to any tribunal constituted under those provisions, such remuneration and such travelling and other allowances,
 - (b) to any person required to attend at any proceedings under this Part of this Act, such travelling and other allowances, and

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- (c) such other expenses in connection with the work of any person or tribunal appointed or constituted under any provision of this Part of this Act (other than a tribunal presided over by the Commissioner or a deputy Commissioner), as the Minister with the consent of the Treasury may determine.
- (3) The Minister may pay to any person required under this Act (whether for the purposes of the foregoing provisions of this Part of this Act or otherwise) to attend for or to submit himself to medical or other examination or treatment such travelling and other allowances as the Minister with the consent of the Treasury may determine.
- (4) In this section references to travelling and other allowances include references to compensation for loss of remunerative time :

 Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this section.

81 Recovery of benefit wrongly paid, interim payments of benefit, and arrears

- (1) Where benefit is or has been paid in pursuance of a decision which is reversed or varied on appeal, or is revised on a review, then, subject to subsection (2) of this section, the decision given on the appeal or review shall require repayment to the National Insurance Fund of any benefit paid in pursuance of the original decision to the extent to which it—
 - (a) would not have been payable if the decision on the appeal or review had been given in the first instance; and
 - (b) is not directed to be treated as paid on account of the benefit awarded by the decision on appeal or review, or as having been properly paid.
- (2) A decision given on appeal or review shall not require repayment of benefit paid in pursuance of the original decision in any case where it is shown to the satisfaction of the person or tribunal determining the appeal or review that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.
- (3) Regulations may make provision as respects matters arising—
 - (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or to the receipt thereof or any person's liability for contributions ; or
 - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (4) Without prejudice to the generality of subsection (3) of this section, regulations thereunder may include provision—
 - (a) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;
 - (b) for treating any benefit paid to any person under an award, or by virtue of any provision of the regulations, which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;
 - (c) modifying subsections (1) and (2) of this section in relation to sums paid by way of benefit in respect of a child of the family of a man and his wife living

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together where those sums would have been receivable, if properly paid, by either the man or the wife;

- (d) making any such provision for the recovery of sums paid by way of benefit and required to be repaid by virtue of subsection (1) of this section as is authorised to be made in a case where repayment is required by the regulations.

- (5) Where in the case of any sums paid by way of benefit before 26th February 1962—
 - (a) the decision in pursuance of which they were paid was before that date reversed or varied on an appeal, or revised on a review, in such a way that those sums or any part of them would not have been payable if the decision on appeal or review had been given in the first instance; and
 - (b) that decision on appeal or review is itself reversed or varied on an appeal, or revised on a review, under this Act,

any question arising on the appeal or review under this Act as to the repayment of those sums or that part of them shall be determined in accordance with the provisions as to repayment in force immediately before that date.

- (6) Where, in the case of any person, any sum may by virtue of regulations under subsection (3) of this section be recovered by deduction from benefit under this Act, it may instead be recovered from him in whole or in part by deduction from any payment under the Industrial Injuries Act, and any amount so recovered shall be paid to the National Insurance Fund.
- (7) Regulations may provide for unemployment benefit of which repayment is required by virtue of subsection (1) of this section to be repaid to or through a local education authority administering unemployment benefit by virtue of section 11 of the Employment and Training Act 1948.
- (8) The provisions of Schedule 7 to this Act shall have effect to enable sums paid by way of benefit under this Act or the Industrial Injuries Act or by way of family allowance, and afterwards found not to have been payable, to be treated as paid on account of any sums properly payable to the same person by way of such a benefit or allowance, or to be treated as properly paid, and to provide for matters arising out of their being so treated.
- (9) Nothing in this Act shall prejudice the provisions of sections 13 and 14 of the National Assistance Act 1948 with respect to the abatement of payments in respect of arrears of benefit.

82 Saving for Tribunals and Inquiries Act 1958

The provisions of this Part of this Act shall have effect subject to the provisions of the Tribunals and Inquiries Act 1958.